

recommendations to which objection is made."). The Court has reviewed the Report and finds its reasoning to be neither clearly erroneous nor contrary to law. *United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir.), *cert. denied*, 492 U.S. 918 (1989). The Recommendation shall therefore be accepted pursuant to 28 U.S.C. § 636(b)(1) such that Defendants' Second Motion to Dismiss Plaintiff's First Amended Complaint (docket #43) should be GRANTED such that Plaintiff's contract and fraud claims should be DISMISSED WITHOUT PREJUDICE for failure to prosecute or comply with court orders, but that Plaintiff's DTPA and negligent misrepresentation claims should be DISMISSED WITH PREJUDICE as effectively time-barred from prosecution by the statute of limitations.

Accordingly, it is hereby ORDERED that the Report and Recommendation of United States Magistrate Judge filed in this cause on March 24, 2023 (docket #54), is ACCEPTED pursuant to 28 U.S.C. § 636(b)(1) such that Defendants' Second Motion to Dismiss Plaintiff's First Amended Complaint (docket #43) is GRANTED such that Plaintiff's contract and fraud claims are **DISMISSED WITHOUT PREJUDICE** for failure to prosecute or comply with court orders, but Plaintiff's DTPA and negligent misrepresentation claims are **DISMISSED WITH PREJUDICE** as effectively time-barred from prosecution by the statute of limitations. IT IS FURTHER ORDERED that motions pending, if any, are also **DISMISSED**, and this case is **CLOSED**.

It is so ORDERED.

SIGNED this 25th day of April 25, 2023.



FRED BIERY
UNITED STATES DISTRICT JUDGE